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April 28, 2017

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VIA ECF

The Honorable Joan M. Azrack
United States District Judge
United States District Court
Eastern District of New York
100 Federal Plaza
Central Islip, NY 11722

Re: Dennis L. D'Aquino, et al., v. Garda CL Atlantic, Inc.
Docket No. 16-cv-00641 (JMA)(AKT)

Jimmy L. Adkins, et al., v. Garda CL Atlantic, Inc.
Docket No. 17-cv-2532 (FB)(SMG)

Dear Judge Azrack:

This firm represents Defendant Garda CL Atlantic, Inc. ("Defendant") in the above-referenced matter. We write to respectfully request on behalf of all parties a conference before the Court to discuss (1) the parties' outstanding discovery; (2) the recent filing of a related case Adkins, et al. v. Garda CL Atlantic, Inc., 17 CV 2532; and (3) a stay of the time for Defendant's pre-motion conference letter for summary judgment under the motor carrier exemption.

As the Court is aware, the parties have engaged in limited discovery as ordered by the Court related to whether the motor carrier exemption (Section 13(b)(1) of the FLSA) was dispositive of the instant action. The parties, however, dispute the parameters of that limited discovery. Indeed, Defendant sought to take Plaintiffs' depositions as part of that limited discovery, but Plaintiffs contend that deposition testimony is not subject to the Court-ordered limited discovery, and that a Court order requiring more robust discovery would be necessary. Accordingly, the parties request a conference to discuss the parameters of the limited discovery, or whether more complete discovery will be necessary.

Further, we request a conference before the Court to discuss the related case Adkins, et al. v. Garda CL Atlantic, Inc., 17 CV 2532.¹ The Adkins action was filed by a group of plaintiffs who also allege, in part, that they were denied overtime pay in violation of the New York Labor Law. Indeed, it is apparent that the Adkins plaintiffs are a subset of the class that Plaintiff's counsel

¹ Defendant removed the Adkins action from the Supreme Court of the State of New York, County of Queens, to the United States District Court, Eastern District of New York, on April 27, 2017. The Court issued a notice of related case. See 16 CV 00641, Doc. No. 28.

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in D'Aguino purports to represent. Given the almost identical allegations, the potential for duplicative discovery and judicial waste, is high. A conference with the parties in D'Aguino and Adkins will help resolve how these actions will be litigated going forward.

Given the above uncertainty related to discovery, and the Adkins matter, Defendant requests, and Plaintiff consents, to a stay of Defendant's time to file its pre-motion conference letter for summary judgment on the motor carrier exemption issue, at least until the parties appear before Your Honor for a conference. Accordingly, we respectfully request a conference before Your Honor to resolve the aforementioned issues. Thank you for the Court's considerations of these requests.

Very truly yours,

LITTLER MENDELSON, P.C.

/s/ Daniel Gomez-Sanchez
Daniel Gomez-Sanchez

CC: All Counsel of Record (*via ECF*)

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